

AKR
8. L33
V14/12
Copy 3



South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

Vol. 14

April 8, 1997

No. 12

CONTENTS

Week in Review	2
Committee Action	5
Bills Introduced	7

S. C. STATE LIBRARY

APR 11 1997

STATE DOCUMENTS

OFFICE OF RESEARCH

Room 309, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, (803)734-3230

WEEK IN REVIEW

HOUSE

The House gave third reading to a bill which prompted extensive debate during the previous week, H.3665, the *South Carolina Comprehensive Infrastructure Development and Financing Act*. To address needs for other improvements, the House amended and gave third reading to H.3694, the Capital Improvements Bond Bill which authorizes \$250,660,401 in projects. According to the State Treasurer's Office, the total debt service for this bond issue amortized over 15 years at 6% is \$386.1 million. The first fiscal year's debt service on this new authorization will be about \$1.1 million based on a bond issuance of \$40 million in the Fall of 1997. Eventually when all \$250 million in bonds are issued, the annual debt service would be approximately \$25.4 million..

The bill provides for \$103.5 million for new construction projects for higher education institutions, \$42 million for deferred maintenance for higher education institutions, and \$105.2 million for other projects including \$54 million for the Department of Corrections, \$17 million for Clemson PSA and \$10 million for the purchase of Jocasee Property in Pickens and Oconee counties.

Upon enactment of the bill, the State Treasurer will issue State Capital Improvement Bonds as needed after the scheduling of projects by the Joint Bond Review Committee and the Budget and Control Board. The debt will be retired by General Fund revenues as provided for in the annual General Appropriations Act. Currently the debt service for Capital Improvement Bonds is \$143.1 million.

The House passed the bill with two amendments. The first amendment provides that, "A project may be authorized in the act only for a state agency or institution included in the Annual General Appropriations Act." The second amendment provides, "An institution of higher learning, including technical education colleges, receiving funds for new construction projects, not including funds provided for deferred maintenance or renovations, pursuant to authorizations for state capital improvement bonds shall match the state funds provided with at least 20% non-state funds toward the total costs of the project identified in the bond authorization. This match requirement does not apply to any project that received architectural and engineering funding prior to July 1, 1995."

The House amended and gave third reading to H.3397 which imposes various limits on local governments' ability to create or raise taxes and fees. The bill provides that a local governing body may not impose a new tax after December 31, 1996, unless specifically authorized by the General Assembly. By ordinance adopted by a positive majority vote (i.e. a majority of all members of a governing body), a local governing body may impose a business license tax or increase the rate of a business license tax. By ordinance adopted by a positive majority vote, a local governing body may charge and collect a service or user fee. No local

governing body may increase taxes or uniform service charge rates (excluding utilities) above the rates imposed for such purposes for the prior tax year. Rates may be increased only by the percentage increase in the consumer price index based upon the southeastern average. The bill also details certain exceptions when rates may be increased, including such scenarios as a rate increase needed to offset a prior year's deficit or to respond to a natural or environmental disaster. Millage rate limitations may be overridden by a positive affirmative vote of the local governing body. A local governing body is authorized to impose via ordinance adopted by a positive majority vote, an accommodations tax not to exceed 3%. By the same method, a local government is authorized to impose a hospitality tax, not to exceed 2%, on meals and beverages served in establishments licensed for on-premises consumption of alcoholic beverages, beer, or wine. No local government may impose a fee or tax on the transfer of real property without the authorization of the General Assembly. Unauthorized real estate transfer fees and taxes collected by local governments must be remitted, but, local governments need not remit real estate transfer fees to the state if those funds have already been expended for the purposes for which they were intended. Certain restrictions apply to expenditures of funds generated by the accommodations and hospitality taxes. Amendments authorize a county governing body to impose a 1% sales and use tax by ordinance, subject to a referendum, within the county area for specific purposes and for a limited amount of time to collect a limited amount of money. Revenues generated by this means may be expended on such capital improvements as roads, bridges, libraries, sewers, flood control projects, etc.

The House amended the bill so as to remove a section which would have subjected the general and special appropriations acts to a law which requires a supermajority vote from the General Assembly to enact what are popularly known as unfunded mandates. As amended, the bill retains current law which exempts these appropriations acts from the requirement that any measure requiring a county to spend money must receive at least a two-thirds affirmative vote from the General Assembly to be enacted .

The House revisited the issue of enhancing the state's mandatory seat belt law by amending and giving third reading to H.3089. The bill provides a fifteen (rather than the current ten) dollar penalty for the failure to wear a seatbelt and a twenty-five (rather than twenty) dollar maximum penalty for any single incidence. Primary enforcement of the seatbelt law is authorized where the violator is under the age of eighteen. Primary enforcement allows an officer to stop a vehicle for a failure to wear seatbelts in the absence of any other violation. Failure to wear a seatbelt is not admissible as evidence in a civil action, and convictions for violations must not be included in information compiled by the Department of Public Safety and the State Law Enforcement Division. An amendment requires other states which are parties to the Driver License Compact to provide their reports of convictions of South Carolina drivers which occur in their jurisdictions within five years of the time of conviction.

The House amended and gave third reading to H.3275, "The Prison Overcrowding Relief Act of 1997," which authorizes the Department of Corrections to use tents and other soft-sided, temporary, or portable structures to house prisoners eligible for minimum custody confinement or work release. County jails and detention facilities may also make use of such structures to house prisoners convicted of nonviolent offenses. Facilities which are authorized to make use of tents may not release prisoners for reason of overcrowding unless tents have been utilized to house eligible prisoners. Tents are subject to review by the State Fire Marshal and the Department of Health and Environmental Control to ensure their safety. Local officials

are authorized to formulate standards for temporary facilities which must be approved by a majority in the county governing body.

The House amended and gave third reading to H.3695 which creates the South Carolina Economic Development Authority, and provides for its governance, powers, and duties. The bill provides for the devolution upon the Authority, on approval by the SC Budget and Control Board, of various functions, powers and duties of the SC Department of Commerce that are considered necessary to enhance economic development and growth. The Authority is intended to complement and enhance the economic development efforts of the Department of Commerce and would operate in conjunction with that agency to more effectively compete in the recruiting of industry to SC. Authority employees would not be classified as state employees, but would be eligible for the same State benefits that state employees receive. The Authority would be headed by a director, to be appointed by the Governor. The Secretary of Commerce may serve as director, *ex officio*.

The House amended and gave third reading to S.70 which requires any retired justice or judge appointed by the Chief Justice to serve in the state's courts to have been found qualified by the Judicial Merit Selection Commission within four, rather than two, years. An amendment, adopted by the full House, allows a retired judge to postpone an irrevocable decision to practice law and thereby forfeit his eligibility for service in the state's courts. The bill also reroutes the appointment process for masters-in-equity.

S.33 received third reading from the House and was enrolled for ratification. The bill regulates the use of locked hospitality cabinets in rooms of hotels and inns. The House amended and gave third reading to H.3177 which requires a general contractor's license for any marine construction which is to be undertaken in bodies of salt water where the cost of construction is at least ten thousand dollars.

The House amended and gave third reading to three bills H.3444, H.3341, and H.3300, which authorize special license plates for the Marine Corps League, the Sons of Confederate Veterans, and fraternities and sororities, respectively.

The House received reports from both the Judicial Merit Selection Commission and the Committee to Screen Candidates for Boards of Trustees of State Colleges and Universities which list all qualified candidates.

SENATE

The Senate gave third reading and sent to the House S.264. This bill provides that the State Treasurer must reimburse taxing districts for 90% of the revenue lost as a result of the residential property tax rollback, within five working days of the local taxing district's request.

The Senate also gave third reading to S.310, the *SC Patients' Insurance and Benefits Protection Act*. This bill provides that certain businesses with more than 50 employees must provide specific health insurance options. The bill also prohibits "gag clauses." These clauses

in managed care contracts prevent doctors from telling patients of more expensive treatment options. The bill also requires managed care contracts to disclose patients' rights and benefits in writing.

S.480 also received final reading in the Senate and has been sent to the House. This bill allows South Carolinians who are victims of terrorism inside or outside the United States to apply for benefits from the Victims' Compensation Fund. The bill has been referred to the House Judiciary Committee.

S.442, which allows payment of county taxes by credit card (if same is approved by the county governing body) and which allows the county governing body to impose a surcharge upon the payer, received third reading from the Senate and has been referred to the House Labor, Commerce and Industry Committee.

COMMITTEE ACTION

EDUCATION AND PUBLIC WORKS

The Higher Education subcommittee adjourned debate on H.3305, which imposes a 25% tuition surcharge on students who take more than a certain number of credit hours to complete a baccalaureate degree at any South Carolina state-supported college or university. The subcommittee recommended a favorable report with amendments on H.3566. This bill provides that if a bridge for motor vehicles over a railroad track, which bridge is owned by a railroad company, is closed by the Department of Transportation for being unsafe for vehicular use, no railroad traffic may use the track underneath such bridge until it is replaced or unless flagmen are used on the railroad tracks approaching the bridge until it is replaced. The bill also provides that upon a bridge being replaced as provided in the bill, it must be transferred to the State by the railroad company. The subcommittee recommended an amendment to provide that if the unsafe bridge is being replaced, the railroad company at its expense, during the time the bridge is being replaced, must place a flagman on the track approaching the bridge in both directions warning oncoming trains of the replacement work. The subcommittee also recommended an amendment providing that upon a bridge being replaced, the railroad company at its option may or may not transfer ownership of the bridge to the State. However, the State may not refuse to accept transfer of the bridge if the railroad company desires to transfer it to the State. The recommended amendment also provides that if the railroad company chooses not to transfer the bridge to the State after replacement, it shall be the railroad company's responsibility thereafter to maintain that bridge up to all then current safety and traffic requirements.

JUDICIARY

The General Laws Subcommittee gave a report of favorable with amendment to H.3421 which provides that it is a misdemeanor to knowingly make a false report of child abuse or neglect, punishable with a five thousand dollar fine, imprisonment for up to ninety days, or both. The subcommittee reported favorably on S.292 which provides that the State Law Enforcement Division shall collect and maintain concealable weapon application, renewal and replacement fees for the administration of the "Law-Abiding Citizens Self-Defense Act of 1996." Maximum sizes for concealable weapon permits are specified.

The Constitutional Laws Subcommittee reported favorably on two bills. H.3506 authorizes the Department of Health and Environmental Control to relocate the coastal division within the agency organizational structure, so long as the coastal division continues as an organizational unit and is located at or above the level of a bureau. S.77 provides that when a counterclaim is filed with an initial claim in magistrates' court which would, if successful, exceed the magistrates' civil jurisdictional amounts, both the initial and counter claims must be transferred to the court of common pleas.

LABOR, COMMERCE AND INDUSTRY

Neither the full committee nor subcommittees met last week.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The Health and Environmental Affairs Subcommittee amended and passed out H.3033. This bill would establish an Emergency Medical Services for Children program (EMSC) within DHEC and would establish an EMSC Committee to assist in the formulation of policy and guidelines for children's emergency medical services. The Committee would serve without compensation and the membership would include several pediatric specialists, other health care professionals, and parents of young children.

The EMSC program would establish EMS personnel education programs and guidelines for referral, treatment, inter-hospital transfer, and rehabilitation for critically ill or injured children. DHEC would employ a full-time coordinator and promulgate regulations to carry out the EMSC program. The bill also would authorize DHEC, in conjunction with the S.C. Data Oversight Council, to collect and analyze children's EMS data and to organize injury prevention and public education activities. The bill also contains provisions to require the data to be handled in such a way that patient and caregiver confidentiality is protected.

The amendment simplifies the description of the EMSC program, adds a provision to ensure conformity with existing statutes governing collection of patient data, and deletes the specific requirements for the membership of the EMSC Committee.

WAYS AND MEANS

The Welfare Reform Legislation subcommittee gave a favorable recommendation with amendments to two bills. **H.3650** includes numerous conforming provisions to the Family Independence Act of 1995. Most of these provisions concern child support, employment, and training. Subcommittee amendment recommendations to this bill include revision in the time limits for a child support obligor to be served and to respond in various instances pursuant to a notice of financial responsibility, a revision strengthening the provisions concerning applicants seeking employment, and technical amendments.

H.3651 includes numerous conforming provisions that states must have in effect in order to remain eligible for federal funding under Title IV-D of the Social Security Act. Many of these provisions relate to child support enforcement. The subcommittee amendment recommendations to **H.3651** include technical changes, as well as changing from \$2500 to \$1000 the threshold amount of unpaid child support which prompts an arrearage lien process against the obligor; an authorization for the Child Support Division to promulgate regulations and rules, if necessary, to implement the provisions of the section; and punitive measures against any individual or entity who prepares or submits certain falsified information.

BILLS INTRODUCED

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3756 BLACK SEA BASS Rep. Limehouse

This bill states that black sea bass must be processed, marketed, and sold to the ultimate consumer with head and tail fins intact. A commercial retailer or restaurant may remove the head at the request of the ultimate consumer after completion of the transaction but before transfer of the purchase or serving of the dish.

H.3807 STATE GAME ZONES Rep. Sharpe

This bill revises the composition of Game Zones 1 and 2 and revises the open season for taking deer in Game Zones 1, 2, and 4. The Department of Natural Resources also will establish the methods and restrictions related to hunting and taking both antlered and antlerless deer.

H.3815 S.C. COMMERCIAL ALLIGATOR OPERATIONS ACT Rep. Delleney

This bill would enact the "South Carolina Commercial Alligator Operations Act" to regulate the breeding of farm-raised alligators for certain commercial purposes. The bill states that any person, firm, or corporation may engage in the business of propagating alligators on an alligator farm for restocking, propagation, and other commercial purposes by complying with the provisions of the new article, and may thereafter sell either live alligators to other licensed

alligator farmers only, or the parts or skins of such farm-raised alligators to any person for any purpose, including sale for food.

A person who desires to engage in the business of raising, exhibiting, and selling alligators on alligator farms shall apply to the Department of Natural Resources for a license to do so. Each alligator parts dealer also must secure an alligator parts dealer license from the department before commencing business. These licenses cost \$100.00 annually. Each retailer selling canned alligator parts or purchasing alligator parts, and each restaurant selling prepared alligator meat for human consumption shall secure a license from the department before commencing business. The license shall be secured annually and shall be furnished upon payment of \$5.00.

H.3771 SUPERB ACCOUNT Rep. Sharpe

The Superb Account and the Superb Financial Responsibility Fund are administered by DHEC to assist owners and operators of underground storage tanks containing petroleum. The Account must be used for the payment of usual, customary, and reasonable costs for site rehabilitation of releases from underground storage tanks containing petroleum or petroleum products. The Fund must be used to compensate third parties for bodily injury and property damage caused by accidental releases from the underground storage tanks.

This bill amends several sections of the code relating to the purposes and uses of the Superb Account and the Superb Financial Responsibility Fund. The bill clarifies that the Fund may pay claims directly for bodily injury and property damages caused by releases from underground storage tanks containing petroleum or petroleum products. The bill also states that DHEC's intervention costs must not affect the per occurrence coverage amounts. Several other sections of the code are amended, including Section 44-2-60, which requires owners or operators of an underground storage tank which stores or is intended to store a regulated substance to register the tank with the department and pay an annual renewal fee of \$100.00 a tank a year. The bill states that the department may not issue a registration certificate until all past and present fees and penalties owed on a tank are paid and that the department may not issue a registration certificate to any owner or operator who has not complied with all terms of a consent or final administrative order issued under Section 44-2-140.

H.3789 RESTRICTION ON TAKING CERTAIN FISH Rep. Limehouse

This bill amends the Code relating to the restrictions on taking certain fish. Under the provisions of the bill, the Department of Natural Resources may establish minimum size limits and possession limits for twelve saltwater finfish species. Notwithstanding the size and possession limits in the bill, the department may reduce the take and possession limit for spotted sea trout to zero from January 1 through August 31 of each year, and may establish a possession limit of zero to one fish for red drum over 27 inches total length.

S.294 HUNTING MIGRATORY WATERFOWL Sen. Drummond

This bill states that it is unlawful to hunt migratory waterfowl on Lake Greenwood within 200 yards of a dwelling without written permission of the owner and occupant. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than \$200 or imprisoned not more than 30 days.

EDUCATION AND PUBLIC WORKS

H.3761 LICENSE PLATES Rep. Martin

This bill requires that all vehicles have a standard state license plate on the rear bumper of the vehicle and provides that special and commemorative license plates may be placed only on the front bumper of a vehicle.

H.3767 COTTON MODULAR VEHICLES Rep. Townsend

This bill increases the maximum width allowed for a cotton modular vehicle from 107 inches to 110 inches. A "cotton modular vehicle" is a single motor vehicle used only to transport seed cotton modules, cotton, or equipment used in the transporting or processing of cotton.

H.3793 DEALER LICENSE PLATES Rep. Kirsh

This bill revises the number of dealer license plates that may be issued to a dealer and deletes the current requirement that before a plate is issued, a dealer must have made a certain minimum number of sales of motor vehicles in the 12 months preceding his application for a dealer plate.

H.3828 SUPERIOR ACADEMIC ACHIEVEMENT DIPLOMA Rep. Harrell

This bill provides that, beginning with the 1997-98 school year, public and nonpublic high school graduates in South Carolina who meet certain specified criteria will be awarded a Superior Academic Achievement High School Diploma. The bill also provides that students who receive this diploma and who attend a public or private South Carolina institution of higher learning or technical college will receive a \$500 scholarship. Funds for the scholarships will be distributed by the Palmetto Fellows Scholarship Program to the appropriate institutions.

H.3829 REGIONAL TRANSPORTATION AUTHORITIES Rep. Harrell

This bill amends the "Regional Transportation Authority Law" by changing references to "cities" to "municipalities."

JUDICIARY

H.3768 MEDICAL EXAMINATIONS OF SEXUAL ASSAULT VICTIMS Rep. Harrison

This bill provides for the Crime Victim's Compensation Fund to reimburse health care facilities for costs of medical examinations for victims of alleged criminal sexual conduct or child sexual abuse.

H.3770 CHILD PROTECTIVE SERVICES PILOT PROGRAM Rep. Kelley

This bill authorizes the Department of Social Services to establish, in one region of the state, a child protective services pilot program which allows the Department to divert less serious child abuse and neglect cases to an assessment track rather than following normal protocol.

H.3773 FAILURE TO STOP FOR LAW ENFORCEMENT OFFICER Rep. Limehouse

This bill raises penalties for the failure to stop a vehicle when signaled by a law enforcement officer. The provision is eliminated which allows for expungement from one's record records of certain arrests and convictions for the violation.

H.3774 RESISTING A LAW ENFORCEMENT OFFICER Rep. Limehouse

This bill converts the existing maximum time limits for imprisonment for violations of resisting a law enforcement officer into mandatory minimum sentences. The bill provides that an individual who resists a law enforcement officer while using a weapon is guilty of a felony and subject to a fine of not less than five thousand dollars and not more than twenty thousand dollars or a mandatory minimum sentence of twenty years.

H.3779 TERM OF COURT Rep. Jennings

This bill defines "term of court" as one week of court set by the Chief Justice in the indictment or failure to indict and trial of persons committed for treason or felony.

S.289 USE OF INMATE LABOR BY NONPROFIT ORGANIZATIONS Sen. Anderson

This bill authorizes the Director of the Department of Corrections to establish a program involving the use of inmate labor by a nonprofit organization. Participants are allowed to earn credits towards a reduction in sentence.

H.3780 ARSON Rep. Young

This bill revises criteria for arson in the first, second, and third degree, and raises penalties for arson in the first and second degrees.

H.3781 LIABILITY FOR PAYMENT OF A DEED RECORDING FEE Rep. Young

This bill specifies that the deed recording fee is computed based on the value of the interest transferred as described in the deed and not on the number of parties to the deed.

H.3782 EX PARTE ORDER FOR PROTECTION FROM DOMESTIC ABUSE Rep. Harrison

This bill provides conditions for when a court is authorized to issue an *ex parte* order for protection from domestic abuse. The *ex parte* order may also include relief for temporary custody, temporary child support, temporary alimony, possession of the marital home, and other appropriate relief.

H.3783 REMOVAL OF CHILD FROM CUSTODY OF PARENTS/GUARDIANS Rep. Allison

This bill requires that all plans for the placement of a child who has been removed from the custody of parents/guardians should include a determination of whether it is in the best interest of the child that the parents, guardians, or anyone else know of the placement of and location of the child. The bill authorizes as much contact between the placed child and parents/guardians as is reasonably possible and consistent with the child's best interests.

H.3786 CONCEALABLE WEAPONS FOR JUDGES AND MAGISTRATES Rep. Knotts

This bill authorizes a judge or magistrate to carry a concealable weapon anywhere within the state upon successful completion of a State Law Enforcement Division firearms training course.

H.3790 DOMESTICATION OF A FOREIGN ADOPTION Rep. Bauer

This bill provides that in the case of domesticating the foreign adoption of a foreign child, the court shall transmit the certificate of adoption to the state registrar without the necessary hearing in all cases where the court finds the documentation satisfactory. Court Administration is required in consultation with the Department of Social Services to prepare and make available adoption forms and guidelines for obtaining the domestication of a foreign adoption.

H.3791 *THREATENING A HIGHWAY PATROLMAN* Rep. Tripp

This bill provides that penalties for threatening the life, person, or family of a public official also apply for threats against a highway patrolmen.

H.3794 *TRESPASSING* Rep. Harrell

This bill provides conditions under which the owner of abutting land is exempt from criminal and civil liability for trespassing when his entry onto another's land is necessary for maintenance or repair.

H.3808 *RATE OF INTEREST ON MONETARY DECREES/JUDGEMENTS* Rep. Limbaugh

This bill provides that instead of fourteen percent per annum, the legal rate of interest for monetary decrees and judgements is equal to the coupon issue yield equivalent, as determined by the State Treasurer, of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately prior to the date of the judgement. Interest shall be computed daily to the date of payment and shall be compounded annually.

H.3812 *REVIEW OF REGULATIONS BY GENERAL ASSEMBLY* Rep. Knotts

This bill provides that the time within which the General Assembly has to review regulations and take action is based on legislative days rather than calendar days.

H.3814 *FRAUDULENT CHECKS* Rep. Townsend

This bill provides for a Worthless Check Unit within the circuit solicitor's office for the purpose of processing fraudulent checks.

S.340 *FILING OF FALSE TAX RETURNS* Sen. Leatherman

This bill increases the fine for filing a false tax returns for the purpose of delay, and requires award of damages by the administrative law judge rather than the circuit court for frivolous or dilatory proceedings. The bill revises penalties for supplying false withholding information to an employer and for filing of a false exemption certificate.

S.480 *COMPENSATION FOR VICTIMS OF TERRORISM* Sen. Courtney

This bill provides that certain victims of terrorism outside of the United States may file for benefits with the victim's compensation fund.

H.3821 *INITIATIVE PETITION* Rep. J. Smith

This bill provides for the enactment of a law or amendment to the states constitution initiated by a petition signed by no fewer than ten percent of the qualified electors eligible to vote at the last general election, where the proposed law or amendment then receives a majority vote. The General Assembly is authorized to provide additional requirements for initiative petition.

H.3824 *NONRESIDENT BENEFICIARIES OF ESTATES AND TRUSTS* Rep. J. Smith

This bill provides that if a nonresident beneficiary of a trust or estate files an acceptable affidavit with the Department of Revenue agreeing that he is subject to the personal jurisdiction of the department and courts of this state for the purpose of determining and collecting state taxes, including estimated taxes, together with related interest and penalties, the trust or estate is not required to withhold with regard to that beneficiary.

H.3825 FAMILY COURT INJUNCTIONS Rep. J. Smith

This bill variously enhances enforcement of family court injunctions issued in divorce suits. Courts of competent jurisdiction may provide for the arrest or detention, with or without a warrant, and upon reasonable suspicion, of an individual violating or threatening violation of injunctions protecting parties from interference, molestation, or harm.

LABOR, COMMERCE AND INDUSTRY

H.3764 CERTIFIED PUBLIC ACCOUNTANTS Rep. Cato

This bill revises various provisions for forms of practice and requirements for certified public accountants. The Board of Accountancy is required to promulgate regulations conforming to the American Institute of Certified Public Accountants standards for contingent fees, commissions, and forms of practice. Until these regulations are promulgated, the Institute's standards apply.

S.204 PLACING INSURANCE WITH A SURPLUS LINES INSURER Sen. Courson

This bill raises from twenty to thirty the number of days within which a broker must file a written request with the Department of Insurance for approval of placing insurance with a surplus lines insurer.

S.451 HEALTH INSURERS RESTRICTION OF PHARMACISTS Sen. McConnell

This bill repeals the section of Act 394 of 1994 which relates to the three-year prospective repeal which prohibits a health insurer from restricting selection of a pharmacist of choice, or from restricting a pharmacist the right to participate as a provider if the terms of the policy are met.

S.452 INSURANCE REPORTS OF LOSS AND EXPENSE EXPERIENCE Sen. McConnell

This bill revises certain reporting requirements and provides the Director of the Department of Insurance flexibility in requiring insurers to submit reports of loss and expense experience.

H.3785 REQUIRED INSTALLATION OF SMOKE DETECTORS Rep. Askins

This bill reduces from fifteen to seven the number of days in which an individual must comply with requirements of installing, repairing, or replacing smoke detectors to avoid committing a first violation.

H.3792 INSURANCE ASSIGNED RISKS Rep. Cato

This bill provides that insurers who participate in the voluntary market must participate in mechanisms which share risks and pay all assessments required of them.

S.412 CREDIT OR DEBIT CARDS Sen. Alexander

This bill prohibits a bank, financial organization, or other entity issuing a credit or debit card from holding or blocking from the account more than one hundred percent of the value of a purchase or transaction entered into by the cardholder.

H.3811 DISPUTE OVER AMOUNT DUE IN WAGES Rep. Bauer

This bill provides that an employer may withhold payment of wages for three days when there is a dispute as to the amount due in wages.

S.310 PATIENTS' INSURANCE AND BENEFITS PROTECTION ACT Senate Banking and Insurance Committee

This bill requires any employer of more than fifty persons which offers only a closed panel, or network plan, to also offer an open panel plan in which the patient may choose the provider of health care. An employee choosing the open panel plan would be responsible for payments in excess of what the closed panel plan would pay, not to exceed a differential of twenty percent between network and outside providers. An employee would decide annually on the type of plan, but, in the case of a critical illness, the employee could move from a closed panel to an open panel plan, regardless of the time of year. "Gag clauses" which prohibit providers/doctors from discussing certain treatment options are eliminated.

S.442 PAYMENT OF COUNTY TAXES BY CREDIT CARD Sen. Leatherman

This bill allows for the payment of county taxes by credit card, subject to approval and imposition of a voluntary and nonrefundable surcharge by the county governing body.

H.3820 PRACTICING PSYCHOLOGY Rep. Beck

This bill redefines the acts which constitute the practice of psychology. The bill removes the provision which allows an individual to be licensed who has a doctor's degree in an allied field rather than psychology. No psychology license may be awarded without examination. Exemptions from required licensure as a psychologist are clarified. Penalties are increased for violations of the psychology practice act.

H.3822 LOANS SECURED BY A FIRST LIEN ON LANDS Rep. J. Smith

This bill includes as a consumer credit sale, a sale of interest in land if the debt is secured by a first lien on land. A loan secured by a first lien on land is included as a consumer loan. Loans secured by a first lien on land are no longer excluded from provisions of the Consumer Protection Code.

H.3830 PRIZE PROMOTIONS AND UNSOLICITED CONSUMER TELEPHONE CALLS Rep. J. Smith

This bill defines and regulates "prize promotions" in unsolicited consumer telephone calls by requiring a telephone solicitor to disclose promptly the identity of the seller, the nature of goods and services to be sold, and that no purchase is necessary to win or participate in a prize promotion where such promotion is offered. Upon request, the telemarketer must disclose the no purchase/no payment entry method for the prize promotion.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.3758 COUNTY VETERANS AFFAIRS OFFICERS Rep. Felder

This bill defines a "veteran" as a person who served on active duty for a period of more than 180 days and was discharged or released from such active duty with an honorable discharge or, if 180 days or less, was discharged or released from service active duty because of a service-connected disability. The bill also requires a county veterans affairs officer position to

be filled by a qualified veteran or by a qualified nonveteran if the veteran being considered has lesser qualifications.

The bill also requires all county veterans affairs officers to successfully complete a comprehensive course of training and be issued accreditation within two years following initial appointment, either through the Division of Veterans' Affairs or through an accredited national veterans service organization. Any county veterans affairs officer who does not complete the required training and receive accreditation within the first two years following appointment is ineligible for reappointment by the county legislative delegation. Additionally, in order to maintain accreditation, refresher training is required every two years.

H.3760 PREGNANCY PREVENTION EDUCATION COURSE Rep. Moody-Lawrence

This bill requires a female who is pregnant, unmarried, and under 18 years of age to attend and complete a pregnancy prevention education course which includes instruction on birth control methods and sexually transmitted diseases. The course must be offered free of charge by the county health departments.

H.3765 S.C. PUBLIC HOSPITAL FAIRNESS ACT Rep. Tripp

This bill enacts the "South Carolina Public Hospital Fairness Act". Under the provisions of the bill, certain public hospitals must allow other facilities to purchase the regional services offered by the hospital at the offered prices without the requirement that a particular volume of service be purchased. a facility that purchases a regional service is entitled to do so for itself and for the benefit of insurance companies and other entities who pay for health care services rendered to their insureds, subscribers, or members.

Upon request from a facility, a public hospital must provide in writing a complete, detailed statement of all offered prices currently offered or agreed to be offered in the future regarding each regional service provided by the public hospital or its affiliates within that service radius. No public hospital may provide beneficial pricing arrangements for regional service to induce the facility purchasing the service to encourage a person or entity to obtain any other health care service from the public hospital rather than from another hospital located in the same area which is willing to provide the service at a comparable price.

If a public hospital or any of its affiliates violates or threatens to violate these provisions, a facility that, as a result of the actual or threatened violation, has failed or would fail to receive the benefits of the service may bring a civil action to recover damages and/or to obtain injunctive relief. The trial judge must award the facility which obtains damages or injunctive relief or both three times the actual damages, reasonable attorney's fees and court costs.

H.3801 PENSION FUND FOR MUNICIPAL FIREMEN Rep. Wilkins

This bill changes the composition of the Board of Trustees of the Pension Fund for Municipal Firemen. Under the provisions of the bill, the board of trustees will consist of five members as follows: the chief of the fire department, the mayor of the city, or one member of council to be appointed by the mayor who will serve a two-year term, and three members elected in such manner and with such qualifications as council by ordinance prescribes and having terms of office of not more than three years.

H.3784 LICENSING OF PHYSICAL THERAPISTS Rep. Haskins

This bill conforms the chapter concerning the licensure and regulation of physical therapists to the organizational framework established for professional licensing boards in South Carolina Code. The bill also deletes the requirement for treatment by prescription from a physician or dentist, clarifies the scope of practice, and makes several other changes related to the practice of physical therapy.

H.3795 RECOVERY OF MEDICAID ASSISTANCE Rep. Fleming

This bill repeals Section 43-7-460, which mandates the State Health and Human Services Finance Commission to seek recovery of medical assistance paid under the Title XIX State Plan for Medical Assistance from the estate of certain individuals.

WAYS AND MEANS

H.3757 EARNINGS LIMITATION UNDER STATE RETIREMENT SYSTEM Rep. Hinson

This bill provides that consulting fees paid to a retired member of the state retirement system by an employer covered by the system are considered earnings within the earnings limitations of the system. The bill also provides that consulting fees paid to a retired member of the police retirement system by an employer covered by the system are considered earnings within the earnings limitations of that system.

H.3759 EXEMPTIONS FROM AD VALOREM TAXATION Rep. Felder

This bill provides an exemption from *ad valorem* taxation for properties owned within the State and used or occupied by a county fair association that is exempt from federal income taxation under Section 501(c) of the US Internal Revenue Code of 1986.

H.3762 HOMEOWNERS' ASSOCIATION PROPERTY Rep. Klauber

This bill provides that for purposes of equalization and assessment, a homeowners' association may designate one or any number of its qualifying tracts or parcels as homeowners' association property for purposes of special valuation.

H.3763 PRESCRIPTIONS UNDER STATE HEALTH PLAN Rep. Martin

This bill provides that participating pharmacies of the state health plan shall bill the state health plan's drug program for reimbursement after employees have met their deductible, and that state employees covered by the prescription plan shall pay the copayment to the pharmacy at the time the prescription is filled.

H.3769 STATE LOTTERIES Rep. Spearman

This joint resolution proposes an amendment to the SC Constitution authorizing the state (as provided for by the General Assembly) to conduct lotteries. Revenues would fund lottery operational expenses (maximum 15%) and lottery prizes (50%), with the remaining funds used to provide scholarships to in-state residents to attend post-secondary institutions in South Carolina in the manner provided by the General Assembly by law.

S.207 VIDEO GAMES Sen. Hayes

This bill relates to sections of current law which provide that coin-operated nonpayout machines with a free play feature are not illegal. The bill provides that regulation of video games pursuant to the Video Games Machines Act is not prohibited, including the prohibition on payoffs and location of these machines in counties where such payouts and machines are prohibited under the local option provisions of that Act. The bill provides civil penalties for machines located in counties where payouts are prohibited, including fines, revocation of machine license, and seizure and disposal of machines.

**H.3802 DISCLOSURE OF INFORMATION FILED WITH
DEPARTMENT OF REVENUE Rep. Boan**

This bill allows the disclosure of specific information to a U.S. Senator from South Carolina, a U.S. Representative from South Carolina, a South Carolina Constitutional Officer, or a member of the South Carolina General Assembly in connection with a taxpayer's written inquiry for assistance to the elected official, who has then referred the taxpayer to the South Carolina Department of Revenue for assistance.

H.3803 TAX RETURN INFORMATION Rep. Boan

This bill provides that it is unlawful for an officer or employee of the Department of Revenue to examine deliberately a return or return information of a taxpayer to obtain a personal gain or advantage. A person convicted of violating this provision would be fined not more than \$1,000, or imprisoned not more than one year, or both, together with the costs of prosecution. In addition, a person convicted of such a violation would be dismissed from office or discharged from employment.

**H.3787 SCHOLASTIC EXCELLENCE THROUGH EDUCATIONAL
DEVELOPMENT FUND Rep. Haskins**

This bill establishes the Scholastic Excellence through Educational Development Fund, which would provide merit-based scholarships to cover tuition and fees to eligible resident students attending state-supported colleges and universities. The bill requires that the South Carolina Public Service Authority pay into the fund from its operating budget an amount determined by the Budget and Control Board which shall be equal to the local, state, and federal taxes it would have paid for that year if it had been a for-profit, privately-owned utility corporation, including but not limited to property tax, sales tax, generation and income tax. The bill provides eligibility requirements for the scholarships, including requirements for a student's residency and for academic performance, and a requirement that students must apply for federal financial aid to be eligible for a merit-based scholarship. Merit-based scholarships would cover only tuition and fees not covered by Pell Grants or other federal assistance. The scholarship fund would be administered by the Commission on Higher Education.

H.3809 FEES IN LIEU OF TAXES Rep. Harrell

This bill requires that, for purposes of fee in lieu of property taxes arrangements and industrial development projects, investors must file a copy of the inducement or lease agreement with the Department of Revenue and the county auditors and the county assessors for the county or counties in which the project is located within thirty days of the date of execution of the agreement.

H.3810 FILING OF REGISTRATION STATEMENTS Rep. Harrell

This bill provides that a parent-teacher organization affiliated with an educational institution is exempt from filing a registration statement with the Attorney General, provided none of its fund-raising activities are carried on by professional solicitors.

H.3813 COMMUNITY DEVELOPMENT CORPORATION ACT OF 1997 Rep. Cobb-Hunter

This bill enacts the "Community Development Corporation Act of 1997" and authorizes the Department of Commerce to expend funds for grants and loans to community development corporations to support the corporations' projects, activities, and operations. A "community development corporation" is defined as a 501(c)(3) tax exempt, nonprofit corporation whose primary mission is to develop and improve low income communities and neighborhoods through economic and related development; who designates a low income area as the specific geographic community within which it will operate; whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and whose primary function is to enhance the economic opportunities of the people in the community served, including efforts to enable them to become owners and managers of small businesses and producers of affordable housing and jobs in the community served.

The bill requires that the Department of Commerce provide funds to the SC Association of Community Development to capitalize a "Community Development Fund" to leverage private investments in order to build the organizational capacity of the association. The bill requires that the Department of Commerce establish a revolving loan fund for making small loans (\$100,000 or less) to community development corporations for economic development projects and activities. The bill delineates procedures to be used for awarding grants and loans.

S.343 SALE OF PROPERTY FOR DELINQUENT TAXES Sen. Leatherman

This bill provides an alternative site for the auction of property being sold for delinquent taxes. In addition to the currently-allowed courthouse site, the bill provides that the property may be sold at other buildings owned or leased by the county where the property tax records are kept, if designated and advertised.

H.3819 FEE IN LIEU OF TAXES Rep. Harrell

This bill enacts the "Fee in Lieu of Tax Simplification Act of 1997." The purpose of the bill is to simplify the method for obtaining the fee in lieu of tax benefits while maintaining the county council approval process. The bill eliminates the requirement for the issuance of industrial revenue bonds or the transfer of title of property to a county, which is intended to facilitate the benefit for the county and for the company making the investment.

H.3826 APPROPRIATIONS TO VETERANS' ORGANIZATIONS Rep. J. Smith

This bill requires that, to the extent that the General Assembly appropriates funds for the use of veterans' organizations, it must appropriate funds for the use of the Vietnam Veterans of America, Inc., in a like amount and under the same conditions. The bill also requires that the appropriation for the Vietnam Veterans of America, Inc. must be in addition to amounts previously appropriated for other veterans' organizations.

H.3827 CONSTITUTIONAL DEBT LIMIT EXEMPTIONS Rep. Harrell

This bill exempts from the constitutional debt limitation revenue derived by governmental entities from activity other than the exercise of "the power of *ad valorem* taxation."

Current law exempts from the constitutional debt limitation revenue derived by governmental entities from activity other than the exercise of "the power of taxation."

FOOTNOTE

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (WWW.LPITR.STATE.SC.US) and click on the "Quick Find Guide." On the next screen, click on "*Legislative Update*." This will list all of the *Legislative Updates* by date. Click on the date you need.